

LEGAL PRESENCE PROVISIONS

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Mike Thompson

LONG TITLE

General Description:

This bill modifies the State Affairs in General title, the Uniform Driver License Act, and the Utah Highway Patrol Act to amend legal presence provisions.

Highlighted Provisions:

This bill:

- ▶ defines "governmental entity";
- ▶ prohibits a governmental entity from accepting a matricula card issued by the Mexican government as proof of personal identification;
- ▶ repeals, as a substitute for a Social Security number, the use of a temporary identification number (ITIN) issued by the Internal Revenue Service for purposes of obtaining a driver license or identification card issued by the Driver License Division; and
- ▶ requires the Utah Highway Patrol to establish and implement procedures for:
 - recognizing, identifying, and reporting of detained persons who are not legally present in the United States;
 - cooperating with the United States Citizenship and Immigration Services for the enforcement of legal presence laws; and
 - training troopers on the enforcement of legal presence laws.

Monies Appropriated in this Bill:

None

Other Special Clauses:



This bill takes effect on July 1, 2004.

Utah Code Sections Affected:

AMENDS:

53-3-205, as last amended by Chapter 30, Laws of Utah 2003

53-3-804, as last amended by Chapter 30, Laws of Utah 2003

ENACTS:

53-8-108, Utah Code Annotated 1953

63-98-101, Utah Code Annotated 1953

63-98-102, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **53-3-205** is amended to read:

53-3-205. Application for license or endorsement -- Fee required -- Tests -- Expiration dates of licenses and endorsements -- Information required -- Previous licenses surrendered -- Driving record transferred from other states -- Reinstatement -- Fee required -- License agreement.

(1) An application for any original license, provisional license, or endorsement shall be:

(a) made upon a form furnished by the division; and

(b) accompanied by a nonrefundable fee set under Section 53-3-105.

(2) An application and fee for an original class D license entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and skills tests for a class D license within six months of the date of the application;

(b) a learner permit if needed after the knowledge test is passed; and

(c) an original class D license and license certificate after all tests are passed.

(3) An application and fee for an original class M license entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and skills tests for a class M license within six months of the date of the application;

(b) a learner permit if needed after the knowledge test is passed; and

(c) an original class M license and license certificate after all tests are passed.

(4) An application and fee for a motorcycle or taxicab endorsement entitle the

59 applicant to:

60 (a) not more than three attempts to pass both the knowledge and skills tests within six
61 months of the date of the application;

62 (b) a motorcycle learner permit if needed after the motorcycle knowledge test is
63 passed; and

64 (c) a motorcycle or taxicab endorsement when all tests are passed.

65 (5) An application and fees for a commercial class A, B, or C license entitle the
66 applicant to:

67 (a) not more than two attempts to pass a knowledge test and not more than two
68 attempts to pass a skills test within six months of the date of the application;

69 (b) a commercial driver instruction permit if needed after the knowledge test is passed;
70 and

71 (c) an original commercial class A, B, or C license and license certificate when all
72 applicable tests are passed.

73 (6) An application and fee for a CDL endorsement entitle the applicant to:

74 (a) not more than two attempts to pass a knowledge test and not more than two
75 attempts to pass a skills test within six months of the date of the application; and

76 (b) a CDL endorsement when all tests are passed.

77 (7) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement
78 test within the number of attempts provided in Subsection (5) or (6), each test may be taken
79 two additional times within the six months for the fee provided in Section 53-3-105.

80 (8) (a) An original license expires on the birth date of the applicant in the fifth year
81 following the year the license certificate was issued.

82 (b) A renewal or an extension to a license expires on the birth date of the licensee in
83 the fifth year following the expiration date of the license certificate renewed or extended.

84 (c) A duplicate license expires on the same date as the last license certificate issued.

85 (d) An endorsement to a license expires on the same date as the license certificate
86 regardless of the date the endorsement was granted.

87 (e) A license and any endorsement to the license held by a person ordered to active
88 duty and stationed outside Utah in any of the armed forces of the United States, which expires
89 during the time period the person is stationed outside of the state, is valid until 90 days after the

person has been discharged or has left the service, unless the license is suspended, disqualified, denied, or has been cancelled or revoked by the division, or the licensee updates the information or photograph on the license certificate.

(9) (a) In addition to the information required by Title 63, Chapter 46b, Administrative Procedures Act, for requests for agency action, each applicant shall have a Utah residence address and each applicant shall:

(i) provide the applicant's:

(A) full legal name;

(B) birth date;

(C) gender;

(D) between July 1, 2002 and July 1, 2007, race in accordance with the categories established by the United States Census Bureau;

(E) Social Security number ~~[or temporary identification number (ITIN) issued by the Internal Revenue Service for a person who does not qualify for a Social Security number]~~; and

(F) Utah residence address of the applicant;

(ii) provide a description of the applicant;

(iii) state whether the applicant has previously been licensed to drive a motor vehicle and, if so, when and by what state or country;

(iv) state whether the applicant has ever had any license suspended, cancelled, revoked, disqualified, or denied in the last six years, or whether the applicant has ever had any license application refused, and if so, the date of and reason for the suspension, cancellation, revocation, disqualification, denial, or refusal;

(v) state whether the applicant intends to make an anatomical gift under Title 26, Chapter 28, Uniform Anatomical Gift Act, in compliance with Subsection (16);

(vi) provide all other information the division requires; and

(vii) sign the application which signature may include an electronic signature as defined in Section 46-4-102.

(b) The division shall maintain on its computerized records an applicant's~~[-(i)]~~ Social Security number~~[-or]~~.

~~[(ii) temporary identification number (ITIN).]~~

(c) An applicant may not be denied a license for refusing to provide race information

required under Subsection (9)(a)(i)(D).

(10) The division shall require proof of every applicant's name, birthdate, and birthplace by at least one of the following means:

(a) current license certificate;

(b) birth certificate;

(c) Selective Service registration; or

(d) other proof, including church records, family Bible notations, school records, or other evidence considered acceptable by the division.

(11) When an applicant receives a license in another class, all previous license certificates shall be surrendered and canceled. However, a disqualified commercial license may not be canceled unless it expires before the new license certificate is issued.

(12) (a) When an application is received from a person previously licensed in another state to drive a motor vehicle, the division shall request a copy of the driver's record from the other state.

(b) When received, the driver's record becomes part of the driver's record in this state with the same effect as though entered originally on the driver's record in this state.

(13) An application for reinstatement of a license after the suspension, cancellation, disqualification, denial, or revocation of a previous license shall be accompanied by the additional fee or fees specified in Section 53-3-105.

(14) A person who has an appointment with the division for testing and fails to keep the appointment or to cancel at least 48 hours in advance of the appointment shall pay the fee under Section 53-3-105.

(15) A person who applies for an original license or renewal of a license agrees that the person's license is subject to any suspension or revocation authorized under this title or Title 41, Motor Vehicles.

(16) (a) The indication of intent under Subsection (9)(a)(v) shall be authenticated by the licensee in accordance with division rule.

(b) (i) Notwithstanding Title 63, Chapter 2, Government Records Access and Management Act, the division may, upon request, release to an organ procurement organization, as defined in Section 26-28-2, the names and addresses of all persons who under Subsection (9)(a)(v) indicate that they intend to make an anatomical gift.

(ii) An organ procurement organization may use released information only to:

(A) obtain additional information for an anatomical gift registry; and

(B) inform licensees of anatomical gift options, procedures, and benefits.

(17) The division and its employees are not liable, as a result of false or inaccurate information provided under Subsection (9)(a)(v), for direct or indirect:

(a) loss;

(b) detriment; or

(c) injury.

Section 2. Section **53-3-804** is amended to read:

53-3-804. Application for identification card -- Required information -- Release of anatomical gift information.

(1) To apply for an identification card, the applicant shall have a Utah residence address and appear in person at any license examining station.

(2) The applicant shall provide the following information to the division:

(a) true and full legal name and Utah residence address;

(b) date of birth as set forth in a certified copy of the applicant's birth certificate, or other satisfactory evidence of birth, which shall be attached to the application;

(c) ~~[(+)]~~ Social Security number; ~~[or]~~

~~[(ii) temporary identification number (ITIN) issued by the Internal Revenue Service for a person who does not qualify for a Social Security number;]~~

(d) place of birth;

(e) height and weight;

(f) color of eyes and hair;

(g) between July 1, 2002 and July 1, 2007, race in accordance with the categories established by the United States Census Bureau;

(h) signature;

(i) photograph; and

(j) an indication whether the applicant intends to make an anatomical gift under Title 26, Chapter 28, Uniform Anatomical Gift Act.

(3) The requirements of Section 53-3-234 apply to this section for each person, age 16 and older, applying for an identification card. Refusal to consent to the release of information

shall result in the denial of the identification card.

(4) An applicant may not be denied an identification card for refusing to provide race information required under Subsection (2)(g).

Section 3. Section **53-8-108** is enacted to read:

53-8-108. Legal presence enforcement procedures -- Cooperation with the USCIS -- Training.

(1) The Highway Patrol shall establish and implement procedures for:

(a) recognizing, identifying, and reporting of detained persons who are not legally present in the United States;

(b) cooperating with the United States Citizenship and Immigration Services and its successor organizations for the enforcement of legal presence laws; and

(c) training and updating troopers to implement the procedures established under Subsections (1)(a) and (b).

(2) The Highway Patrol shall update the procedures established under Subsection (1) as needed.

Section 4. Section **63-98-101** is enacted to read:

CHAPTER 98. PERSONAL IDENTIFICATION

63-98-101. Title.

This chapter is known as "Personal Identification."

Section 5. Section **63-98-102** is enacted to read:

63-98-102. Matricula card -- Definitions -- Matricula card not acceptable as proof of identification.

(1) As used in this section:

(a) "Governmental entity" means the state and its political subdivisions as defined in this section.

(b) "State" means this state, and includes any office, department, agency, authority, commission, board, institution, hospital, college, university, children's justice center, or other instrumentality of the state.

(c) "Political subdivision" means any county, city, town, school district, public transit district, redevelopment agency, special improvement or taxing district, special district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation

214 Act, or other governmental subdivision or public corporation.
215 (d) "Matricula card" means a matricula consular identification card issued by the
216 government of the United States or Mexico or issued by a Mexican Consulate.
217 (2) A governmental entity may not accept a matricula card as proof of personal
218 identification.
219 Section 6. **Effective date.**
220 This bill takes effect on July 1, 2004.

Legislative Review Note
as of 12-22-03 9:38 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel